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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,088	06/15/2001	Robert J. Del Principe	9437.17504	8647

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EXAMINER

WONG, STEVEN B

ART UNIT PAPER NUMBER

3711

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/883,088	DEL PRINCIPE, ROBERT J.	
	Examiner	Art Unit	
	Steven Wong	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25 and 27-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25 and 27-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Allowable Subject Matter

2. The indicated allowability of claims 25, 28, 30 and 31 is withdrawn in view of the newly discovered reference(s) to Folden and the new interpretation of the reference to Pond, III. Rejections based on the newly cited reference(s) follow.

Claims Rejections – 35 USC 102

3. Claims 27, 31, 32, 34, 36 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Folden. Folden discloses a plastic tubing coupling comprising a shaft (32) having an annular score line (38). Note column 6, lines 36-54 stating that the score line allow the coupling to be broken easily, without weakening the coupling for accidental breakage. Also, note column 7, lines 6-14 stating that the user grasps each end of the tubing to effect the breakage. Thus, Folden inherently teaches that the tubing is capable of flexing through a predetermined range of bend angles before breakage thereof.

Claims Rejections – 35 USC 103

4. Claims 25, 28-30, 33 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Folden. Regarding claim 25, it would have been obvious to one of ordinary skill in the art to bend the tubing without breakage in order to test the strength of the tubing and check for any possible cracks.

Regarding claims 28, 29, 33 and 37, it would have been obvious to one of ordinary skill in the art form the tubing from a more resilient material that permits increased flexibility in order to prevent any premature breakage of the tubing.

Regarding claim 30, the score line does not sever the shaft.

5. Claims 27, 29 and 31-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pond, III (3,087,728). Regarding claims 31, 34, 35, 38 and 39, Pond discloses a simulate golf club comprising a shaft (14, 16, 38) having an annular score line (noted at 28 in Figure 2). The score line extends through part of the shaft (14, 16) but does not extend completely through the shaft in order to “sever” the shaft because of pin (38). Pond states that the shaft is formed from a flexible rubber or a plastic material. Note column 1, lines 35-41 stating that the golf club may be struck against the ground, tree or other element to break the club. It would have been obvious to one of ordinary skill in the art to break the club with one hand on each side of the golf club instead of striking it against the ground or a tree in order to limit possible damage to the club head by impacting a hard surface.

Regarding claims 32 and 36, note the rejection of claim 31. Further, Pond teaches for the shaft to be of a flexible material. It would have been obvious to one of ordinary skill in the art to form the shaft of Pond from a material with memory in order for the shaft to maintain its appearance as a conventional golf club shaft.

Regarding claim 27, Pond teaches disposing of the broken pin after use.

Regarding claim 29, 33 and 37, by stating that the pin is frangible, Pond clearly does not intend for his pin to extend to a maximum bend angle over 45 degrees. It would have been

obvious to one of ordinary skill in the art to have the club of Pond fracture before reaching 45 degrees in order to provide a more easily breakable club.

Response to Arguments

6. Applicant's arguments have been fully considered but are not deemed to persuasive. The indicated allowability of claims 25, 28, 30 and 31 has been withdrawn in view of the newly applied reference to Folden and the reapplication of the reference to Pond, III. Regarding the reference to Pond, the shaft of Pond comprises upper and lower members (14, 16) and frangible pin (38). The score line does not sever the shaft because of the pin.

Regarding the limitation for the shaft to be a rigid and resilient solid polymer material, Pond discloses for the shaft to be formed from a flexible rubber or plastic material. Note Figure 4 showing the rubber or plastic material as a solid.


Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 703-308-3135. The examiner can normally be reached on Monday through Friday 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Steven Wong
Primary Examiner
Art Unit 3711

SBW
July 8, 2004